



LIBRARY OF CONGRESS

Copyright Royalty Board

[Docket No. 2012-1 CRB Business Establishments II]

Determination of Rates and Terms for Business Establishment Services

AGENCY: Copyright Royalty Board, Library of Congress.

ACTION: Notice announcing commencement of proceeding with request for Petitions to Participate.

SUMMARY: The Copyright Royalty Judges are announcing the commencement of the proceeding to determine the reasonable rates and terms for the making of an ephemeral recording of a sound recording for a later transmission by entities that transmit performances of a sound recording to business establishments. The Judges also are announcing the date by which a party who wishes to participate in this rate proceeding must file its Petition to Participate and the accompanying \$150 filing fee.

DATES: Petitions to Participate and the filing fee are due no later than [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE **FEDERAL REGISTER**].

ADDRESSES: An original, five copies and an electronic copy in Portable Document Format (PDF) on a CD of the Petition to Participate, along with the \$150 filing fee, may be delivered to the Copyright Royalty Board by either mail or hand delivery. Petitions to Participate and the \$150 filing fee may not be delivered by overnight delivery service other than the U.S. Postal Service Express Mail. If by mail (including overnight delivery), Petitions to Participate and the filing fee must be addressed to: Copyright Royalty Board, P.O. Box 70977, Washington, DC 20024-0977. If hand delivered by a private party, Petitions to Participate and the filing fee must be brought between 8:30 a.m. and 5 p.m. to the Library of Congress, James Madison Memorial Building, LM-401,

101 Independence Avenue, SE., Washington, DC 20559-6000. If delivered by a commercial courier, Petitions to Participate and the filing fee must be delivered between 8:30 a.m. and 4 p.m. to the Congressional Courier Acceptance Site, located at 2nd and D Street, NE., Washington, DC. The envelope must be addressed to: Copyright Royalty Board, Library of Congress, James Madison Memorial Building, Room LM-403, 101 Independence Avenue, SE., Washington, DC 20559-6000.

FOR FURTHER INFORMATION CONTACT: LaKeshia Keys, Program Specialist, by telephone at (202) 707-7658 or e-mail at crb@loc.gov.

SUPPLEMENTARY INFORMATION:

Background

This Notice is issued pursuant to 17 U.S.C. 804(b)(2), which requires the commencement of proceedings “to determine reasonable terms and rates of royalty payments for the activities described in section 112(e)(1) relating to the limitation on exclusive rights specified by section 114(d)(1)(C)(iv).” Section 112(e)(1) of the Copyright Act, title 17 of the United States Code, authorizes entities that transmit performances of sound recordings to business establishments, pursuant to the limitations set forth in section 114(d)(1)(C)(iv), to make an ephemeral phonorecord of a sound recording for purposes of a later transmission. In accordance with section 804(b)(2) as amended by the Copyright Royalty and Distribution Reform Act of 2004, the first proceeding was commenced in 2007, 72 FR 584 (January 5, 2007); on March 27, 2008, the Copyright Royalty Judges published regulations that set the rates and terms for the license period 2009-2013. Section 804(b)(2) also requires that such proceedings “shall be repeated in each subsequent fifth calendar year.” Thus, in accordance with section

804(b)(2) of the Copyright Act, the Judges announce the commencement of the proceeding to set rates and terms for the 2014-2018 license period. Section 803(b)(1)(A)(i)(II) directs the Judges to publish in the **Federal Register** a notice commencing this proceeding by no later than January 5, 2012. Today's notice fulfills this requirement.

Petitions to Participate

Petitions to Participate must be filed in accordance with § 351.1(b) of the Judges' regulations. *See* 37 CFR 351.1(b). Petitions to Participate must be accompanied by a \$150 filing fee. Parties must pay the filing fee with a check or money order made payable to the "Copyright Royalty Board." If a check received in payment of the filing fee is returned for lack of sufficient funds, the corresponding Petition to Participate will be dismissed.

In accordance with 37 CFR 350.2 (Representation), only attorneys who are members of the bar in one or more states or the District of Columbia and in good standing will be allowed to represent parties before the Copyright Royalty Judges, unless a party is an individual who represents himself or herself.

Dated: December 28, 2011

Stanley C. Wisniewski,
U.S. Copyright Royalty Judge.

[BILLING CODE: 1410-72-P]

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